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October 17, 2024

VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. James R. Cho, U.S.M.J.
225 Cadman Plaza East
Courtroom 11D South
Brooklyn, NY 11201-1804

Re: IME WatchDog, Inc. v. Gelardi, *et al.*
Case No.: 1:22-cv-1032 (PKC) (JRC)
MLLG File No.: 25-2022

Dear Judge Chen:

This office, along with Sage Legal LLC, represents the Plaintiff IME WatchDog, Inc. (“Plaintiff”) in the above-referenced case. Pursuant to Local Civil Rule 37.2, Plaintiff respectfully submits this letter concerning the failure of non-parties Christian Hogarth, Fari Gutierrez, Lizbeth Medina, Mark Purficati, and Sara Gonzalez (collectively the “non-parties”), to respond to subpoenas that were served on them in April and May, 2024 seeking the production of documents relevant to Plaintiff’s claims in this case.¹ (A copy of the subpoenas and affidavits of service are annexed hereto as Exhibit “A”).

On September 16, 2024, I emailed each of the non-parties regarding their failure to respond to the subpoenas. None of the non-parties responded. On October 15, 2024, I attempted to call the non-parties to further meet and confer. I left voicemail messages for Christian Hogarth, Fari Gutierrez, Lizbeth Medina, and Mark Purficati. I spoke with Sara Gonzalez who told me, in sum and substance, that this case has nothing to do with her and she will not respond to the subpoena. I told her that I would be filing the instant motion.² Based on the foregoing, Plaintiff respectfully submits that it made a good faith effort to meet-and-confer with the non-parties to avoid the instant motion.

¹ The non-parties were also served with subpoenas to appear to testify at the May 29, 2024 hearing at which they failed to appear.

² Similarly, Mark Purficati previously told Carlos Roa, an employee of Plaintiff, that he received a prior subpoena to testify at a hearing in this matter and that he has nothing to do with this case and would not testify.

Accordingly, Plaintiff respectfully seeks an order directing the non-parties to serve responses to the subpoenas within one (1) week of the Court Order and warning them in the Court Order that failure to respond may result in a finding of contempt against them which could result in their incarceration until they comply. See Fed. R. Civ. P. 37(a)(1).

Further, given Ms. Gonzalez's refusal to respond, attorneys' fees should be awarded to Plaintiff. See Fed. R. Civ. P. 37(a)(5)(A).

Dated: Lake Success, New York
October 17, 2024

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

/s/ Jamie S. Felsen, Esq.

Dated: Jamaica, New York
October 17, 2024

SAGE LEGAL LLC

/s/ Emanuel Kataev, Esq.

cc: All Counsel of Record (via ECF)
Christian Hogarth, 7901 4th Avenue, Apr. F3, Brooklyn, NY 11209
Fari Gutierrez, 8117 102nd Avenue, Apartment 1, Ozone Park, NY 11416
Lizbeth Medina, 961 E 27th St., Paterson, NJ 07513
Mark Purficati, 50-19 104th Street, Corona, NY 11368
Sara Gonzalez, 2069 Union Street, Apt. 4F, Brooklyn, NY 11212